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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/678,456	10/03/2003	Uwe Hagemann	C4257(C)	3340

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UNILEVER INTELLECTUAL PROPERTY GROUP
700 SYLVAN AVENUE,
BLDG C2 SOUTH
ENGLEWOOD CLIFFS, NJ 07632-3100

EXAMINER

O MALLEY, KATHRYN S

ART UNIT PAPER NUMBER

3749

DATE MAILED: 05/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/678,456

Applicant(s)

HAGEMANN ET AL.

Examiner

Kathryn S. O'Malley

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 02 February 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 03 October 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 2/2/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Claim Objections

1. Claim 1 is objected to because of the following informalities: in claim 1, line 7, "the suction cup/s" should be replaced with --the one or more suction cups--.

Appropriate correction is required.

2. Claim 5 is objected to because of the following informalities: in claim 5, line 1, the phrase, "the suction cup" has been repeated. The second occurrence of this phrase should be removed from the claim. Appropriate correction is required.

3. Claim 9 is objected to because of the following informalities: in claim 9, line 7, "the suction cup/s" should be replaced with --the one or more suction cups--.

Appropriate correction is required.

4. Claim 13 is objected to because of the following informalities: in claim 13, lines 5 and 6, "projection/s" should be replaced with --projection--. Appropriate correction is required.

5. Claim 15 is objected to because of the following informalities: in claim 15, line 2 the phrase "include pair projections" is missing some terms. It appears likely to Examiner that the intended phrase was, --include a pair of projections--. In claim 15, line 6, "and or" should be replaced with --and/or--. Appropriate correction is required.

6. Claim 17 is objected to because of the following informalities: in claim 17, line 7, "the suction cup/s" should be replaced with --the one or more suction cups--.

Appropriate correction is required.

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1-19 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

3. A broad range or limitation together with a narrow range or limitation that falls within the broad range or limitation (in the same claim) is considered indefinite, since the resulting claim does not clearly set forth the metes and bounds of the patent protection desired. See MPEP § 2173.05(c). Note the explanation given by the Board of Patent Appeals and Interferences in *Ex parte Wu*, 10 USPQ2d 2031, 2033 (Bd. Pat. App. & Inter. 1989), as to where broad language is followed by "such as" and then narrow language. The Board stated that this can render a claim indefinite by raising a question or doubt as to whether the feature introduced by such language is (a) merely exemplary of the remainder of the claim, and therefore not required, or (b) a required feature of the claims. Note also, for example, the decisions of *Ex parte Steigewald*, 131 USPQ 74 (Bd. App. 1961); *Ex parte Hall*, 83 USPQ 38 (Bd. App. 1948); and *Ex parte Hasche*, 86 USPQ 481 (Bd. App. 1949). In the present instance, claim 1 recites the broad recitation, "the tumble dryer interior," and the claim also recites, "preferably the door," which is the narrower statement of the range/limitation; claim 4 recites the broad recitation, "curved outer perimeter," and the claim also recites, "e.g. it is circular or oval,"

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which is the narrower statement of the range/limitation; claim 5 recites the broad recitation, "30% to 90%," and the claim also recites, "preferably 40% to 60%," which is the narrower statement of the range/limitation; claim 7 recites the broad recitation, "average hand span," and the claim also recites, "e.g. 14 cm or less, and preferably 12 cm or less," which is the narrower statement of the range/limitation; claim 9 recites the broad recitation, "the tumble dryer interior," and the claim also recites, "preferably the door," which is the narrower statement of the range/limitation; claim 17 recites the broad recitation, "the tumble dryer interior," and the claim also recites, "preferably the door," which is the narrower statement of the range/limitation.

4. Regarding claim 2, in claim 2, lines 2-3, the phrase "moveable relative to e.g. resiliently" appears to be missing some terms. As it is unclear what Applicant intends to claim, the claim has not been examined further.

5. Regarding claim 6, in claim 6, line 2, it is unclear what "area" is being referred to. It seems likely to Examiner, based on claim 5, that Applicant intends to claim "the total area of the support member," so the claim has been examined accordingly for the purposes of this Office Action. However, appropriate correction is required.

Claim Rejections - 35 USC § 103

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

7. Claims 1-11 and 17-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over US Patent 4,014,432 to Clothier et al. in view of US Patent 5,220,734 to Carver.

8. Regarding claims 1, 9, and 17, Clothier et al. teach a device for treating fabrics in a tumble dryer comprising support member 36 (col. 9, lin. 10-16 and Figure 11) and a reservoir between base 35 and membrane 40 for storing fabric treatment composition 39 (col. 9, lin. 16-20 and Figure 11) and being attachable to support member 36 (col. 9, lin. 20-22 and Figure 11). Support member 36 includes 4 suction cups 38 for attachment to the tumble dryer interior (col. 9, lines 12-16). Regarding claim 9, the support member and reservoir have inter-engagement members so the reservoir is lockable to the support member- note that the lower edge of membrane 40 is pressed by ring 41 into the groove in the edge 37 of support member 36 (col. 9, lin. 20-23 and Figure 11). Clothier et al. do not teach suction cups 38 having suction cup actuators. Carver teaches a similar device for attaching an object to the interior of a clothes dryer comprising suction cups 32 and 34 with suction cup tabs 36 and 38 (col. 4, lin. 39-42 and Figure 1). As an actuator is defined as a mechanical device for controlling, it is determined that tabs attached to a suction cup to facilitate their removal meets the limitation of a suction cup actuator. Therefore, as Carver teaches that having tabs attached to suction cups eases their removal from the surface they are attached to (col. 4, lin. 39-42), it would have been obvious to one of ordinary skill in the art to modify the suction cups of Clothier et al. with the actuators of Carver.

9. Regarding claims 3 and 4, the suction cups 38 of Clothier et al. are arranged centrally, in the radial direction, on rim-shaped support member 36; and suction cups 38 are circular (Figure 10).

10. Regarding claims 5 and 6, the suction cups 38 do not occupy the claimed range of the total area of the support member 36. However, such a limitation would have been obvious to one of ordinary skill in the art since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art. *In re Aller*, 105 USPQ 233.

11. Regarding claims 7 and 8, Clothier et al. teach a device having a diameter of 10 cm (col.9, lin. 43), which is deemed to meet the claim limitation of “approximately” 11 cm.

12. Regarding claim 10, the inter-engageable members (as described in Paragraph 10 above) comprise an aperture (the groove in the edge 37 of support member 36) paired with a projection (the lower edge of membrane 40 is biased into the groove by ring 41) for a snap-fit engagement between the support member and the reservoir (col.9, lin. 20-23).

13. Regarding claim 11, as biasing ring 41 is elastic and edge 37 is plastic (col. 9, lin. 21-22), both elements are resilient.

14. Regarding claims 18 and 19, Clothier et al. teach using the device with a tumble dryer (col. 9, lin. 58).

15. Claim 16 is rejected under 35 U.S.C. 103(a) as being unpatentable over Clothier et al. in view of Carver as applied to claim 1 above, and further in view of US Patent 5,873,651 to Hofer et al.

16. Clothier et al. teach that the device may further have a hook instead of suction cups 38 to support the device (col. 2, lin. 47-55). However, they do not suggest an apparatus having both suction cups and a hook. Hofer et al. teach a similar supporting device comprising both suction cup 106c' and hook 106h (col. 7, lin. 1-11 and Figure 10). As having both a suction cup and a hook allows for a more stable, dual operation support, it would have been obvious to one of ordinary skill in the art to modify the support apparatus of Clothier et al., as modified by Carver, with the dual support system taught by Hofer et al.

Allowable Subject Matter

17. Claims 12- 15 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and rewritten to overcome the claim objections and rejections under 35 USC 112 as described above.

Conclusion

18. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hope and Wilson teach similar devices for attachment to a clothes dryer.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kathryn S. O'Malley whose telephone number is (571)272-4879. The examiner can normally be reached on M-F (9:00-6:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ira Lazarus can be reached on (703)308-1935. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

KSO


CHERYL TYLER
SUPERVISORY PATENT EXAMINER